

SYN. NO. _____

AGN. NO. _____

MOTION BY SUPERVISOR ZEV YAROSLAVSKY

AUGUST 7, 2007

On Friday night August 3 at approximately 11:51 p.m., Secretary of State (SOS) Debra Bowen issued the results of her "Top-to-Bottom Review" of voting systems used within the State of California.

Per prior agreement with the SOS, Los Angeles County's vote tabulation equipment, known as the Micro Tally System (MTS), was excluded from the top-to-bottom review. The reason for this exclusion is the County's intent to eliminate use of the MTS as soon as the Diebold GEMS II vote tabulation system is certified for use in California. However, two other systems used by the County were included in the SOS review: the Diebold AccuVote-TSX (TouchScreen) system which the County uses for early voting, and the Election Systems & Software, Inc. (ES&S) InkaVote Plus/Precinct Ballot Readers, which at the present time are used for Help America Vote Act (HAVA) compliance (disabled voting and under/over votes) only. Diebold submitted its materials to the SOS for review in accordance with the timetable requested. ES&S did not submit its materials to the SOS until after the deadline for participation in the top-to-bottom review.

In her August 3 decision, the SOS decertified the Diebold AccuVote-TSX and then immediately recertified it with a long series of conditions. The SOS also decertified

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ES&S' InkaVote but indicated her willingness to review it in the coming weeks and to recertify it in time for use in the February, 2008 Presidential primary.

These conditions will create challenges for the County. The County will be conducting three elections between now and February – the run-off election in the 37th Congressional District on August 21, 2007, the recall election in the City of Lynwood in September and the Uniform District ("UDEL") Elections in November. Since the SOS decision does not take effect until February, use of the Diebold TouchScreen and InkaVote systems will be legal in those elections.

Yet, the County has only six months from last Friday to determine whether and how it can meet the SOS' conditions for continued use of the Diebold TouchScreen in future elections beginning with next year's Presidential primary. If the InkaVote system is not ultimately certified the County will be out of compliance with Federal law which requires disabled access to voting machines.

These matters only became public close to midnight on Friday, August 3 – well past the posting of today's agenda.

I, THEREFORE, MOVE that the Board of Supervisors find that there is a need to take immediate action because of the upcoming elections that the Registrar-Recorder/County Clerk will be conducting, and that need came to the Board's attention subsequent to the agenda being posted.

I FURTHER MOVE that the Registrar-Recorder and County Counsel be instructed to present a report to the Board at its meeting of Tuesday, August 7 concerning the Secretary of State's Top-to-Bottom Review of Voting Systems and its impact on elections to be conducted by the County within the next six months.